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Testimony

Before the Committee on Health,  
Education, Labor and Pensions,  
U.S. Senate

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## SCHOOL BULLYING

# Legal Protections for Vulnerable Youth Need to Be More Fully Assessed

Statement of Linda M. Calbom, Western Regional  
Director



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Chairman Harkin, Ranking Member Enzi, and Members of the Committee:

I am pleased to be here today to discuss the results of the work that you and other members of the committee requested on school bullying. It is estimated that millions of American youths have been bullied by their peers, including physical, verbal, and electronic attacks.<sup>1</sup> Some of these incidents, including some where bullying has been linked by the media to teen suicide, have received widespread attention, resulting in heightened awareness of bullying, as well as a wide range of actions at the federal, state, and local levels to address the behavior. Some of these incidents involved bullying based on personal characteristics, including race, religion, or sexual orientation, and have also raised questions about the role and availability of federal and state civil rights protections. Given the dynamic and rapidly changing nature of these efforts, governments at all levels, as well as the public, face a growing need for information about possible legal and practical approaches to combating bullying. My statement is based on our report released yesterday, which addresses the following objectives:

- What is known about the prevalence of school bullying and its effects on victims?
- What approaches are selected states and local school districts taking to combat school bullying?
- What legal options do the federal and selected state governments have in place when bullying leads to allegations of discrimination?
- How are key federal agencies coordinating their efforts to combat school bullying?

To address these objectives, we reviewed research on the prevalence and effects on victims; analyzed state bullying laws, and school district bullying policies; interviewed officials from the Departments of Education (Education), Health and Human Services (HHS), and Justice, and a

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<sup>1</sup>For the purposes of this testimony, the term “bullying” is used to reflect behavior that is intended to inflict harm, repeated over time, and characterized by an imbalance of power between the perpetrator(s) and victim(s). Some sources refer to similar behavior as “harassment,” and may use the terms interchangeably.

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nongeneralizable sample of eight states and six school districts; and reviewed selected relevant federal and state civil rights laws. More information on our scope and methodology is available in the issued report.<sup>2</sup> We conducted our work on which this testimony is based from April 2011 through May 2012 in accordance with generally accepted government auditing standards.

Although definitions vary, including definitions used by federal agencies, many experts generally agree that bullying involves intent to cause harm, accompanied by repetition, and an imbalance of power. Notably, bullying is distinct from general conflict or aggression, which can occur absent an imbalance of power or repetition. For example, a single fight between two youths of roughly equal power is a form of aggression, but may not be bullying. When bullying occurs, it may take many forms, including physical harm, such as hitting, shoving, or locking someone inside a school locker; verbal name calling, taunts, or threats; relational attacks, such as spreading rumors or isolating victims from their peers; and the use of computers or cell phones to convey harmful words or images, also referred to as cyberbullying. Bullying often occurs without apparent provocation and may be based on the victim's personal characteristics. For example, youth may be bullied based on the way they look, dress, speak, or act. To address bullying, federal, state, and local governments have a range of efforts under way, including studies of the prevalence of bullying, laws to prevent and address bullying, and antidiscrimination laws that, for certain stated classes of students, can be used in some circumstances to address discrimination resulting from bullying.

In summary, with regard to the prevalence and effects of bullying, our findings suggest that reported levels of bullying and related effects are significant. Research shows that bullying can have detrimental outcomes for victims, including adverse psychological and behavioral outcomes. According to four nationally representative surveys conducted from 2005 to 2009, an estimated 20 to 28 percent of youth, primarily middle- and high- school-aged youths, reported they had been bullied during the survey periods. However, differences in definitions and questions posed to youth respondents make it difficult to discern trends and affected groups. For example, the surveys did not collect demographic information

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<sup>2</sup>GAO, *School Bullying: Extent of Legal Protections for Vulnerable Groups Needs to Be More Fully Assessed*, GAO-12-349 (Washington, D.C.: May 2012).

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by sexual orientation or gender identity. Education and HHS are partially addressing the issue of inconsistent definitions by collaborating with other federal departments and subject matter experts to develop a uniform definition of bullying that can be used for research purposes. However, gaps in knowledge about the extent of bullying of youths in key demographic groups remain.

Selected states and school districts are taking various approaches to reducing bullying. The bullying laws in the eight states that we reviewed vary in who is covered and the requirements placed on state agencies and school districts. For example, six of the states cover a mix of different demographic groups, referred to as protected classes, such as race and sex or gender, in their bullying laws, while two states do not include any protected classes. With respect to school districts, each of the six districts we studied adopted policies that, among other things, prohibit bullying and describe the potential consequences for engaging in the behavior. Also, school district officials told us that they developed approaches to prevent and respond to bullying. For example, several school officials said they implemented a prevention-oriented framework to promote positive school cultures. Both state and local officials expressed concerns about various issues, including how best to address incidents that occur outside of school.

We also found that while federal and state civil rights laws may offer some protections against bullying in certain circumstances, vulnerable groups may not always be covered. Federal civil rights laws can be used to provide protections against bullying in certain circumstances, but some vulnerable groups are not covered and therefore have no recourse at the federal level. For example, federal agencies lack jurisdiction under civil rights statutes to pursue discrimination cases based solely on socioeconomic status or sexual orientation. Some state civil rights laws provide protections to victims of bullying that go beyond federal law, but federal complainants whose cases are dismissed for lack of jurisdiction are not always informed by Education about the possibility of pursuing claims at the state level.

Finally, regarding federal coordination efforts to combat bullying, we found that a variety of efforts are under way, but that a full assessment of legal remedies has not been completed. Specifically, Education, HHS, and Justice have established coordinated efforts to carry out research and disseminate information on bullying. For example, The Federal Partners in Bullying Prevention Steering Committee serves as a forum for federal agencies to develop and share information with each other and

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the public, and <http://www.stopbullying.gov> consolidates the content of different federal sites into one location to provide free materials for the public. In addition to these efforts, Education has issued information about how federal civil rights laws can be used to address bullying of protected classes of youths and is conducting a comprehensive study of state bullying laws and how selected school districts are implementing them. However, no similar information is being gathered on state civil rights laws and procedures that could be helpful in assessing the adequacy of legal protections for victims of school bullying.

In conclusion, we found that the nature and extent of protections available to students who are bullied depend on the laws and policies where they live or go to school. Education and Justice have taken important steps in assessing how federal civil rights laws can be applied and Education has completed a study of state bullying laws, but neither agency has assessed state civil rights laws and procedures as they may relate to bullying. More information about state civil rights laws and procedures is a key missing link that is needed by administration officials and decision makers alike, to assess the extent of legal protections available to students who have been bullied. Furthermore, while multiple efforts to collect information about bullying have been under way for several years, the prevalence of bullying of youths in certain vulnerable demographic groups is not known. A greater effort by key federal agencies to develop more information about the extent to which a broader range of demographic groups are subject to bullying and bullying-related discrimination would better inform federal efforts to prevent and remedy bullying. This information, together with an assessment of federal and state legal protections, could also aid policymakers in determining whether additional actions are needed to protect vulnerable groups of youths who are most often the target of school bullying.

To allow for a more comprehensive assessment of federal and state efforts to address bullying, our report includes recommendations to Education to compile information about state civil rights laws and procedures that relate to bullying and to develop procedures to routinely inform individuals who file complaints of discrimination stemming from bullying about the potential availability of legal options under their state's anti-discrimination laws; and to Education, HHS, and Justice to develop information about bullied demographic groups in their surveys of youth and to use this information and other information from studies of state bullying and civil rights laws to assess the extent to which legal protections against bullying exist for vulnerable demographic groups.

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Education and HHS generally agreed with our recommendations, although Education took issue with our recommendation that it compile information about state civil rights laws and procedures as they pertain to bullying. In response, we clarified that recommendation to address some of their concerns, but we continue to believe that a one-time compilation of state civil rights laws and procedures would be beneficial, and provide a basis, along with other information, for analyzing the overall legal protections that are available for vulnerable demographic groups. A more complete discussion of agency comments is provided in the report.

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Chairman Harkin, Ranking Member Enzi, and Members of the Committee, this concludes my prepared remarks. I will be happy to answer any questions you may have.

For future contacts regarding this statement, please contact Linda M. Calbom at (206) 287-4809 or [calboml@gao.gov](mailto:calboml@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. Byron Gordon (Assistant Director), Ramona L. Burton (Analyst-in-Charge), Susannah Compton, Alex Galuten, Avani Locke, Ashley McCall, Sheila McCoy, Jean McSween, Mimi Nguyen, Karen O'Conor, Kate O'Dea, Michael Pahr, Rebecca Rose, Regina Santucci, Matthew Saradjian, Ronni Schwartz, and John Townes made significant contributions to the report on which this statement is based.

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